

CGB-CC-1108

FILED/ACCEPTED

MAR 11 2011

Federal Communications Commission
Office of the Secretary

Before the

Commission's Secretary
Office of the Secretary
Federal Communications Commission
236 Massachusetts Avenue N.E.
Suite 110
Washington DC 20002
Attention: CGB Room 3-B431

In the Matter of:

QUE CHICAS

Petition for Undue Burden Exemption From Closed Captioning Requirements.

PETITION

Que Chicas respectfully submits its request that the commission grant its petition for Undue Burden Exemption from Closed Captioning Requirements regarding its video 30 Minutes Program.

Que Chicas is a 30 minute program aired once a week on Saturdays, on the local WMDO Telefutera Washington DC station. The objective of the program is non-profit to keep the Washington Area Community up to date with the happenings of the DC Area.

UNDUE BURDEN IMPOSED BY CAPTIONING REQUIREMENTS:

The cost of captioning will impose an undue burden on the show due to significant difficulty and expense such a process will entail.

Que Chicas has been advised that the cost of providing captioning on a weekly basis would range in the \$400-\$500 range, with the annual cost mounting to over \$25,000. The show maintains an annual contract with WMDO Telefutera for \$425 per week, and the local advertisers would not be able to cover the entire sum with the addition of the captioning cost.

Que Chicas has made several attempts to solicit assistance from advertisers to help cover the cost of the closed captioning cost. However, due to the current economic state of the local advertisers, such assistance is not imminent.

Que Chicas will continue to strive to enhance the product so one day, such a cost as closed captioning will not be an undue burden.

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AFFIDAVIT OF Yesenia Oliva
QUE CHICAS PROGRAM

March 11, 2011

I, Yesenia Oliva of a lawful age, state that I reside at 479 Virginia Ave Herndon, VA, 20187. I further state that I own the program CHICAS located at my residence.

This affidavit is provided to supplement our Petition For Exemption from Closed Captioning Requirements, as undue burden will befall the production and television show entitled *Que Chicas* which airs on WMDO Telefutura Washington DC, from having to comply with the requirement set forth in 47 C.F.R. 79.1 (F)



Yesenia Oliva
479 Virginia Avenue
Herndon, VA 20187

When CGB receives a petition, it must first determine whether a petition contains sufficient information to be placed on public notice (*i.e.*, released to the public) so that the public can comment on its merits. CGB looks to whether the petition contains up-to-date evidence, supported by affidavit, to show that it would be economically burdensome to provide closed captioning for the specific programming for which an exemption is sought. Section 713(e) of the Communications Act and the FCC's rules at 47 C.F.R. § 79.1(f)(2) define "economically burdensome" as "significant difficulty or expense." In determining whether the provision of closed captions will cause significant difficulty or expense, these provisions require the FCC to consider four factors: (1) the nature and cost of the closed captions for the programming; (2) the impact on the operation of the provider or program owner; (3) the financial resources of the provider or program owner; and (4) the type of operations of the provider or program owner.

In order to prove that the provision of closed captioning would impose an economic burden when applying the above four factors, a petition must contain the following:

1. Documentation of the petitioner's financial status sufficient to demonstrate the petitioner's inability to afford closed captioning – for example, profit and loss statements or bank statement information. (This should not just include the resources devoted to or the costs associated with the television program at issue);
2. Information about the costs associated with captioning the specific program(s) for which the petitioner is requesting an exemption;
3. Verification that the petitioner has sought closed captioning assistance (*e.g.*, funding, services) from its video programming distributor; also the extent to which such assistance has been provided or rejected;
4. Verification that the petitioner has sought additional sponsorship sources or other sources of revenue for captioning, and that, even if these efforts have not successfully produced assistance, the petitioner does not otherwise have the means to provide captioning for the program(s); and
5. Information on the type of the petitioner's operation(s) and the impact that providing captions would have on its programming activities, for example, the extent to which its programming might not be shown if it is required to provide captions.

Each petition should contain a specific list of names of the program(s) for which an exemption is being sought and it may describe other factors that the petitioner deems relevant to an exemption determination, as well as any alternatives that could be a reasonable substitute for the closed captioning requirement. Finally, each petition **must be accompanied by an affidavit** (*i.e.*, a written sworn statement made under oath) supporting the petition.

We advise petitioners to carefully review the FCC's recently adopted *Memorandum Opinion and Order, Order, and Notice of Proposed Rulemaking in Anglers for Christ Ministries, Inc.*, which can be found at <http://transition.fcc.gov/cgb/dro/caption.html> and corresponding FCC rules (47 CFR § 79.1(f)(2)-(3)). These documents describe the requirements for obtaining an economically burdensome exemption in detail.

THE PETITION PROCESS – What Happens When a Petition is Sufficient or Deficient

If CGB determines that the petition provides *sufficient* information upon which to make a determination of whether or not to grant a closed captioning exemption, it will place the petition on public notice in CG Docket No. 06-181 at <http://fjallfoss.fcc.gov/ecfs/>. Members of the public will

then have 30 days to file comments on and/or oppositions to the petition, after which the petitioner will have 20 days to respond. At the end of this timeframe, CGB will review the petition, along with information provided in any comments and responses received, to determine whether providing captioning would be economically burdensome for the petitioner. While a petition is pending, the program at issue does not need to be captioned.

If, however, CGB determines that the petition and supporting documents do not provide sufficient information needed for the FCC to make a determination as to the merits of its petition, the petition will be considered *deficient* and CGB will not place the petition on public notice.

YOUR PETITION

As noted above, CGB has determined that the petition that you filed with the FCC on July 15, 2011, is deficient, because although it provided some information, it failed to provide sufficient information for us to make a determination as to whether the provision of closed captioning would be economically burdensome for you. We therefore conclude that your petition is not sufficient to be placed on public notice. As mentioned above, if you wish to receive further consideration for a closed captioning exemption for your programming, you must supplement your petition by filing the information listed in the first paragraph of this letter **by April 6, 2012**, which is 30 days from the date of this letter. If you do not file this additional information by that date or the information that you provide is still deficient, your petition will be dismissed without prejudice to re-filing, and you will be required to begin providing closed captions for this programming **on June 6, 2012**.

If you decide to supplement your petition, your petition, as well as any supporting financial information provided, will be available for public inspection. If your petition contains confidential information, you may request “confidential treatment,” *i.e.*, that it not be shared with members of the public, pursuant to FCC rules. *See* 47 C.F.R. § 0.459. If you provide information for which you want “confidential treatment,” you must also submit a second version of your petition with the confidential information redacted (this must be submitted *along with* your request for confidential treatment). The redacted version will be publicly disclosed. If your request for confidential treatment is granted, the “public version” of your petition must still contain sufficient documentation to support your claim that closed captioning would be economically burdensome. This documentation is needed so that the public understands the basis for your exemption request and can comment on its merits.

If you have additional questions pertaining to the filing of an exemption request, please contact the FCC’s Disability Rights Office at captioningexemption@fcc.gov. Thank you.

Roger Holberg
Attorney, Disability Rights Office
Consumer and Governmental Affairs Bureau

Instructions for Filing a Supplement to a Closed Captioning Exemption Petition

You must send the FCC an original and two (2) copies of the information supplementing your previously filed petition for a closed captioning exemption. Filings must be sent by hand or messenger delivery, commercial overnight courier, or by first class or overnight U.S. Postal Service mail.

For U.S. Postal Service mail, including Express Mail, Priority Mail, and First Class Mail, please use the following address:

Office of the Secretary
Federal Communications Commission
Attention: Disability Rights Office, Room 3-B431
445 12th Street, SW
Washington, DC 20554

For commercial overnight mail, such as Federal Express or United Parcel Service, please use the following address:

Office of the Secretary
Federal Communications Commission
Attention: Disability Rights Office, Room 3-B431
9300 East Hampton Drive
Capitol Heights, MD 20743

Electronic filing and faxes of petitions will not be accepted.

Please wait *at least two weeks* before contacting FCC staff to make inquiries about whether your petition has been received. **You must include the case identifier number at the top of the acknowledgement you previously received, which is also at the top of this letter, in all correspondence with the FCC regarding your petition.**